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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,966	06/23/2003	Scott T. Mazar	279.B15US1	8794

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EXAMINER

GESESSE, TILAHUN

ART UNIT PAPER NUMBER

2618

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/601,966	<b>Applicant(s)</b> MAZAR, SCOTT T.	
	<b>Examiner</b> Tilahun B. Gesesse	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22,35-41,46,48-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 8/18/06 have been fully considered but they are not persuasive.

On page 8, third paragraph applicant's response to the office action , applicant argued that Naiki teaches transmitting a prohibiting signal from a medical apparatus 70. Applicant concludes that Naiki does teach jam the communication between the medical device, therefore, Russo and/or Naiki fail to disclose all elements recited in these claims.

The examiner disagrees. Russo and Naiki both in the same field of endeavor, further more, Naiki teaches an apparatus that transmits signal which prohibits or automatic turn off or disable ( jam) any data transmission (see col.7 lines 1-59,column 8, 54-61 and figures 2 and 4).

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

On page 9, third paragraph applicant's response to the office action , applicant argued that Naiki teaches transmitting a prohibiting signal from a medical apparatus 70. Applicant concludes that Naiki does teach jam the communication between the medical device, therefore, Russo and/or Naiki fail to disclose all elements recited in these claims.

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo et al (US 5,807,336)"Russo" in view of Naiki (US 7,039,426).

Claims 1,9 Russo teaches a method of jamming communication between a medical device and an external device to prevent data transfer (see abstract and fig.1), comprising:

Russo teaches receiving an external input at a blocking device to begin interrupting or disabling the communications between the medical device and the external device ( col.11 line 43-col. 12 line19 and fig.14)

Russo teaches transmitting an interrupting signal from the blocking device to

disable the communication between the medical device and the external device (col. 11 line 43-col. 12 , line 19).

Russo does not expressly teach jamming the communication. However, Naiki teaches transmitting prohibiting signal to medical apparatus (cardiac pace maker) (see col. 8, line 54-68 and figs. 2-4). Russo and Naiki both teaches blocking medical device, then, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to jam a medical device-transferring device of Russo system , as taught by Naiki, in order to prevent medical data transfer from unsecured transfer of data (see col. 1, of Naiki , lines 36-40).

Claim 2, Naiki teaches the blocking device is a short range-jamming transmitter (see fig. 2).

Claim 3, Naiki teaches the jamming signal blankets the frequency range used for the communications (transmitting prohibiting signal ,see fig. 2).

Claim 4, Naiki teaches preventing the medical device from receiving a location to begin transmitting that is sent by the external device (preventing from transmitting fail signal (see column 8, line 54-68 and fig. 4).

Claim 5, Naiki teaches the communication occur through a cellular phone system employing a control channels and the jamming signal blankets the control channels used for the communications (see fig. 2).

Claims 6-8, Russo teaches the input is in response to manipulating a user interface at the blocking device and visual indication and audio signal (see figs. 1 and 2, 10).

Claim 10, Naiki teaches a communication related to electively recorded cardiac pace maker "physiological patient data" (col.8, line 54-68 and fig. 4).

3. Claims 11-19,22,35-38,40-41,46,48-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo in view of Naiki and further in view of Warkentin et al (US6,471,645).

Claims 11,18, 22, Russo teaches a method of jamming communication between a medical device and an external device to prevent data transfer (see abstract and fig.1), comprising:

Russo teaches receiving an external input at a blocking device to begin interrupting or disabling the communications between the medical device and the external device ( col.11 line 43-col. 12 line19 and fig.14)

Russo teaches transmitting an interrupting signal from the blocking device to disable the communication between the medical device and the external device (col. 11 line 43-col. 12 , line 19).

Russo does not expressly teach jamming the communication. However, Naiki teaches transmitting prohibiting signal to medical apparatus (cardiac pace maker) (see col. 8, line54-68 and figs.2-4). Russo and Naiki both teaches blocking medical device, then, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to jam a medical device-transferring device of Russo system , as taught by Naiki, in order to prevent medical data transfer from unsecured transfer of

data (see col. 1, of Naiki , lines 36-40).

Russo and Naiki do not teach implanted medical device. However, Warkentin teaches implanted medical device (see abstract).

It would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to utilize implanted medical device Russo and Naiki system , as evidenced by Warentin , in order to maintain the privacy or prevent from expose to undesired location.

Claim 12, It is a method claim which corresponds to claim 4, above, therefore, it is analyzed and rejected for the same reason as set forth in the claim

Claim 13, It is a method claim which corresponds to claim 4, above, therefore, it is analyzed and rejected for the same reason as set forth in the claim

Claims 14-16, They are method claims which corresponds to claims 6-8, above, therefore, they are analyzed and rejected for the same reason as set forth in the claim

claim 17, it is a method claim which corresponds to claim 10, above, therefore, it analyzed and rejected for the same reason as set forth in the claim.

Claim 19, Naiki teaches sensor to stop transmitting of communication from the medical device (see fig.3).

Claim 35, It is a method claim which corresponds to claim 11, above, therefore, it is analyzed and rejected for the same reason as set forth in the claim

Claims 36-37, they are method claim which corresponds to claim 5, above, therefore, they are analyzed and rejected for the same reason as set forth in the claim.

Claim 38, It is a method claim which corresponds to claim 11, above, therefore, it

is analyzed and rejected for the same reason as set forth in the claim

Claims 40-41, they are method claim which corresponds to claim 11, above, therefore, it is analyzed and rejected for the same reason as set forth in the claim.

Claim 46, It is a method claim which corresponds to claim 11, above, therefore, it is analyzed and rejected for the same reason as set forth in the claim.

Claims 48-49, they are method claim which corresponds to claim 11, above, therefore, they are analyzed and rejected for the same reason as set forth in the claim.

Claim 50-52, It is a method claim which corresponds to claim 11, above, therefore, it is analyzed and rejected for the same reason as set forth in the claim.

4. Claims 20-21 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo and Naiki and Warkentin as applied to claims 1-19 above, and further in view of Von Arx et al (US 6,985,773).

Claims 20-21 and 39, Russo in view of Naiki do not teach a signal at an accelerometer of the medical device and a series of taps on the patient's body.

However, Von Arx teaches a signal at an accelerometer of the medical device and a series of taps on the patient's body (see col. 9 lines 25-68 and figs. 5 and 6). Russo, Naiki and Von Arx all teaches a medical devices transmitting telemetry data to remote device, then, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to accelerometer and taps on the patient's body in Russo and Naiki system, as taught by Von Arx, in order to sense the motion of patient's body and send data to the remote for further analysis.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flexible schedule.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 571-272-7899.

The Central FAX Number is 571-273-8300. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TG

10/526/06

  
TILAHUN GESESSE  
PRIMARY EXAMINER